

DRAFT Rule Text – Compensating Storage September 14, 2006

6.6.1 Compensating Storage

Compensating storage is a method which provides an area for the storage of stormwater runoff in order to prevent adverse flooding impacts that would otherwise cause a project to not meet the conditions for issuance.

Compensating storage is best accomplished when provided on-site so that adverse flooding to off-site properties shall not occur. Off-site compensating storage will only be accepted when an applicant demonstrates that the criteria in 6.6.1.1 is met.

An applicant proposing an off-site compensating storage area as a means to comply with this requirement and as a means to obtain a permit for their project, shall be referred to as the Recipient. An applicant proposing to have excess compensating storage on their project, identified and permitted for other projects to use, shall be referred to as the Donor.

If an applicant successfully demonstrates to the District that providing on-site compensating storage will create a substantial hardship as described above, an applicant may propose offsite compensating storage by proposing an offsite area (either created or preserved) which provides storage of the project's stormwater runoff. Such off-site compensating storage shall only be approved after the requirements of subsection 6.6.1.1 are met. These requirements shall be met concurrently with the permit application.

In certain cases, however, despite a demonstration of substantial hardship, off-site compensating storage cannot offset adverse impacts sufficiently to yield a permissible project. Such cases include proposals which do not provide the compensating storage to the area where the stormwater is displaced or where there are flow path limitations between the project and compensating storage areas.

All Applicants are encouraged to consult with District staff in pre-application conferences or during the application process to identify appropriate compensating storage options and their respective permissibility.

6.6.1.1 Compensating Storage Requirements

A) **Recipient Site:** Compensating storage typically consists of the creation of stormwater runoff storage areas by excavating a volume of material below the existing grade. The compensating storage volume shall be that quantity equal to

the volume stored below the 100 year – 3 day flood elevation and the existing grade. The compensating storage shall be sufficient to allow for the displaced stormwater runoff to be stored.

Off-site compensating storage shall only be considered if the Recipient applicant can demonstrate the following conditions:

1. that it has explored practicable design modifications to accommodate the compensating storage volume onsite but the modifications were not practicable as defined in Section 4.2.1.1, and
2. on-site compensating storage opportunities are not available due to ecological incompatibility, existing adjacent land uses or other land use conflicts, and
3. off-site compensating storage would provide equivalent hydrologic storage, and
4. that providing on-site compensating storage will create a substantial hardship in the permitting of the proposed project. Substantial hardship means a demonstrated economic, technological or legal hardship.

B) If a Recipient applicant proposes off-site compensating storage, the following information shall be submitted with the application and approved by the District staff prior to permit issuance:

1. an engineering analysis to demonstrate that:

- a) The location where the compensating storage is to be provided is within the basin where the runoff is displaced so that the potential for adverse flooding impacts will not occur. In providing this analysis, consideration must be given to the flow path and the rate of flow that would occur between the project site and the compensating storage area.

Comment [e1]: Proximity?

- b) an open storage volume up to the 100 year – 3 day storm elevation is available for storage of the displaced runoff volume.

2. Documentation referenced in Rule 40E-4.101, F.A.C. that demonstrates that the Recipient has the legal right to use the offsite compensating storage area in perpetuity. If an applicant proposes to submit an easement to comply with the provision, the District has adopted Compensating Storage Easement Form No. 1215 as a standard mechanism to comply with this criteria. The applicant shall record the legal interest in the offsite compensating

storage area in the public records of the county where the offsite compensating storage area is located.

C) Donor Site: If a Donor applicant requests that an Environmental Resource Permit be issued with the quantification of an excess compensating storage volume, the Donor shall comply with the following requirements:

1. provide an engineering analysis to demonstrate the open storage volume available on the Donor site is up to the 100 year - 3 day storm elevation, and
2. provide a ledger, to be maintained by the District as part of the Donor's permit, listing the volume of excess compensating storage available on the Donor's site to a Recipient site. The ledger will provide the maximum volume which would be available for withdrawal when the Donor's site has been certified in accordance with its permitting criteria.

In addition to Nos. 1 and 2 above, a Donor shall comply with the following requirements:

To withdraw a compensating storage volume from the Donor's ledger, the Donor must: 1) document that a compensating storage volume has been reserved, sold or transferred to a Recipient applicant, 2) document that the compensating storage volume has been withdrawn from the Donor site permit and permitted to a Recipient (including submittal of the Recipient's permit), and 3) submit an individual permit modification application for the withdrawal of the Donor's ledger credits.

If an agency, other than the District, has permitted the Recipient site, the Donor applicant shall notify the District of such permit, as part of the Donor's application with the District. Upon receipt of this notice, the District shall determine if a sufficient volume of compensating storage is available at the Donor site by evaluating all applicable criteria in this rule, including the available open storage remaining on the Donor's ledger.

The identification of excess compensating storage on the Donor Site is not a guarantee that a Recipient Site will be able to demonstrate compliance with the applicable criteria to use such offsite compensating storage.